

GOVERNMENT  
OF  
THE DISTRICT OF COLUMBIA

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ZONING COMMISSION

PUBLIC HEARING

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IN THE MATTER OF:

DEFINITIONS:

- 1) CLEAR HEIGHT, FLOOR TO  
CEILING
- 2) GLASS, CLEAR AND/OR LOW-  
EMISSIVITY

Case No. 04-31

Case No. 05-01

and

TEXT AMENDMENT - DESIGNATING  
ADULT DEVELOPMENT CENTERS AS  
A USE PERMITTED BY SPECIAL  
EXCEPTION OR AS A MATTER OF  
RIGHT - 11DCMR  
-----+

Thursday, March 31, 2005

Hearing Room 220 South  
441 4<sup>th</sup> Street, N.W.  
Washington, D.C.

The Public Hearing convened at 6:30 p.m.  
Carol J. Mitten, Chairperson, presiding.

ZONING COMMISSION MEMBERS PRESENT:

CAROL J. MITTEN	Chairperson
ANTHONY J. HOOD	Vice Chairperson
JOHN PARSONS	Commissioner
KEVIN HILDEBRAND	Commissioner
GREGORY JEFFRIES	Commissioner

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## OFFICE OF ZONING STAFF PRESENT:

CLIFFORD MOY	Secretary, Zoning Commission
SHARON SCHELLIN	Zoning Specialist

## OFFICE OF PLANNING STAFF PRESENT:

ELLEN MCCARTHY	Deputy Director, Office of Planning
KAREN THOMAS	Office of Planning
STEVE COCHRAN	Office of Planning

This transcript contains the complete minutes of the public hearing held on Thursday, March 31, 2005.

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P-R-O-C-E-E-D-I-N-G-S

6:38 p.m.

CHAIRPERSON MITTEN: Good evening, ladies and gentlemen. This is a public hearing of the Zoning Commission of the District of Columbia, for Thursday, March 31<sup>st</sup>, 2005.

My name is Carol Mitten, and joining me this evening are Vice Chairman Anthony Hood, and Commissioners Kevin Hildebrand and John Parsons. We are expecting Commissioner Jeffries shortly.

We have two items for this evening's hearing, and the first is Zoning Commissioner Case Number 04-31. This is a request by the Office of Planning for a Text Amendment to Title 11 of the District of Columbia Municipal Regulations to add definitions of one, clear height, floor to ceiling and two, glass, clear and/or low emissivity.

I hope I said that right. Notice of today's Hearing was published in the D.C. Register on February 4<sup>th</sup>, 2005, and copies of the Hearing Announcement are available to you, and are located in the wall bin, near the door.

This portion of the Hearing will be conducted ? I guess the whole Hearing ? will be conducted in accordance with the provisions of 11

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DCMR, Section 3021, and the order of procedure will be as follows.

Preliminary matters, followed by the presentation by the Office of Planning. Reports of other Government Agencies, reports of any ANCs, organizations and persons in supports, organizations and persons in opposition.

The following time constraints will be maintained in this Hearing. Organizations will have five minutes and individuals will have three minutes.

The Commission intends to adhere to these time limits, as strictly as possible, in order to hear the case in a reasonable period of time. And the Commission reserves the right to change the time limits for presentations, if necessary, and notes that no time shall be ceded.

All persons appearing before the Commission are to fill out two witness cards. These cards are located on the table near the door. Upon coming forward to speak to the Commission, please give both cards to the Reporter, who is sitting to our right.

Please be advised that this proceeding is being recorded by the Court Reporter and is also being Webcast live. Accordingly, we ask you to refrain from

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1 making any disruptive noises or actions in the Hearing  
2 Room.

3 When presenting information to the  
4 Commission, please turn on and speak into the  
5 microphone, first stating your name and home address.

6 When you are finished speaking, please  
7 turn your microphone off, so that your microphone is  
8 no longer picking up sound or background noise.

9 The decision of the Commission in this  
10 case must be based on the public record. To avoid any  
11 appearance to the contrary, the Commission requests  
12 that persons present not engage the members of the  
13 Commission in conversation during a recess or at any  
14 other time.

15 Staff will be available throughout the  
16 Hearing to discuss any procedural questions, and you  
17 can address those to Mrs. Schellin or Mr. Moy. Please  
18 turn off all beepers and cell phones, at this time, so  
19 as not to disrupt these proceedings.

20 We'll now consider any preliminary matters  
21 related to the first case, which relates to the  
22 definitions of clear height and clear and/or low-  
23 emissivity glass. Are there any preliminary matters?

24 MS. SCHELLIN: No, ma'am, there are not.

25 CHAIRPERSON MITTEN: Okay, then we'll move

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1 right into the presentation by the Office of Planning.

2 MR. COCHRAN: Good evening, Madam Chair.  
3 For the record, my name is Steven Cochran of the  
4 Office of Planning. The Commission has voted to  
5 advertise two text amendments that you just described.

6 Clear height, floor to ceiling, is the  
7 first term to be defined and clear and/or low-  
8 emissivity glass is the second term.

9 With respect to clear height, floor to  
10 ceiling heights are specified in the Southeast Federal  
11 Center overlay and the recently approved Takoma  
12 overlay.

13 They are currently advertised for the  
14 Capitol Gateway overlay, the H Street overlay, and the  
15 Mount Vernon Triangle sub-area of the DD.

16 The language for the proposed Takoma  
17 overlay, and for the Mount Vernon Triangle sub-area,  
18 is exactly the same as that in the proposed  
19 definition.

20 The Office of the Attorney General had  
21 suggested and OP agreed that rather than defining the  
22 term in every overlay, it would make more sense to  
23 define clear height once. Then future regulations  
24 could simply refer back to that definition.

25 The proposed definition does not specify a

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1 particular height, it simply defines how to measure  
2 clear height, no matter what the desired clear height  
3 may be. It would not apply retroactively to, for  
4 instance, the Southeast Federal Center, because that  
5 overlay does not refer to clear height.

6 In the future, however, having floor to  
7 ceiling clear height defined in one place, in the  
8 regulations, would help to establish consistency among  
9 the zoning overlays currently being considered, and  
10 would negate the need to redefine the term with new  
11 overlays the Commission may consider in the future.

12 Now with respect to the clear glass  
13 definition, several zoning overlays already require  
14 the use of clear and/or low emissivity glass on ground  
15 floors. However, the term has never been defined, so  
16 it has been difficult for the Zoning Administrator to  
17 interpret or enforce.

18 There are several examples of ground-floor  
19 glazing within these overlays, especially on U Street,  
20 where smoked glass has been used, but it is so dark  
21 that it is difficult for anything but neon signs to be  
22 seen through the glass.

23 This near opacity does not promote the  
24 kind of retail environment the overlays were meant to  
25 stimulate. The definition is taken directly from

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1 glazing industry standards. The definition would  
2 apply to new overlays that employ the term, and would  
3 also apply to new construction and existing overlays  
4 where the term is employed.

5 That concludes our testimony. We ask that  
6 you, we recommend that you pass what has been  
7 advertised, and thank you very much.

8 CHAIRPERSON MITTEN: Thank you, Mr.  
9 Cochran. Any questions for Mr. Cochran?

10 (No response.)

11 CHAIRPERSON MITTEN: And let the record  
12 reflect that we've been joined by Commissioner  
13 Jeffries, as well. Mr. Hildebrand?

14 COMMISSIONER HILDEBRAND: Yes, I have one  
15 question. I notice that, would you consider that fire  
16 protection systems would be covered under plumbing and  
17 mechanical systems?

18 MR. COCHRAN: Sprinkler systems would be  
19 covered under that, yes.

20 COMMISSIONER HILDEBRAND: Okay, so you  
21 don't feel there's a need to specifically identify  
22 them separate from plumbing and mechanical systems?

23 MR. COCHRAN: I hadn't thought that the  
24 need would be there. Certainly, if the Zoning  
25 Commission felt the need was appropriate, we would

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1 view it as consistent with what was advertised.

2 COMMISSIONER HILDEBRAND: Thank you.

3 CHAIRPERSON MITTEN: In the case of a, of a  
4 finished ceiling that might have some kind of  
5 variation in the ceiling height, how would that, that  
6 would just get measured from the lowest ?

7 MR. COCHRAN: The lowest part of the  
8 ceiling height, from the finished ceiling.

9 CHAIRPERSON MITTEN: Okay. Anyone else  
10 have questions?

11 (No response.)

12 CHAIRPERSON MITTEN: Okay, then we're going  
13 to move along. All right, I don't think we have any  
14 reports of other Government Agencies. On this we  
15 don't, I don't know, I don't think there's, is anyone  
16 here from an ANC for the first case, clear glass,  
17 clear and low-emissivity glass and ceiling height?

18 (No response.)

19 CHAIRPERSON MITTEN: All right, then we'll  
20 ask for organizations and persons in support. Mr.  
21 Harris. And you'll have five whole minutes to make  
22 your testimony.

23 (Laughter.)

24 MR. HARRIS: Hello. Hi, my name is Len  
25 Harris, I'm past Co-Chair and a member of DCBIA's

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1 Retail Business Development Committee. And I'm here  
2 to read testimony from that Committee in support of  
3 Office of Planning's efforts here.

4 The D.C. Building Industry Association is  
5 comprised of 400 member organizations, representing  
6 thousands of individuals involved in all aspects of  
7 the building industry in the District of Columbia.

8 As further set forth below, DCBIA supports  
9 the proposed text amendment as one small part of the  
10 District's effort to promote retail development in our  
11 city.

12 It has become evident from all the  
13 successful mixed-use developments that have taken  
14 place in this city over the past several years, that  
15 it is time that we carefully scrutinize the retail  
16 needs in our neighborhoods, in order to improve the  
17 retail opportunities there.

18 DCBIA fully supports the Office of  
19 Planning's initiative to define clear height, floor to  
20 ceiling, and support the use of glass, clear and/or  
21 low emissivity, in order to improve the retail  
22 situation and new developments throughout our city.

23 It is important that the retailers, both  
24 local and national, who will be investigating retail  
25 expansion, particularly in our transit-oriented

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1 development corridors. Understand that we as a city  
2 recognize their needs and are trying to address them  
3 in a positive fashion.

4 DCBIA understands that the Office of  
5 Planning is proposing clear height, floor to ceiling,  
6 on the ground floor of buildings in certain  
7 neighborhoods, in order to provide space that is more  
8 attractive to potential retail and arts tenants, and  
9 that you will allow developers to increase the total  
10 building height by the amount equal to the additional  
11 ground floor clear height.

12 So that the developer is still able to  
13 develop its property to the full density permitted.  
14 We have seen that the adaptive use of warehouses and  
15 the redevelopment of other buildings, throughout the  
16 country, can provide dramatic ceiling heights.

17 Sometimes in excess of 20 feet. Retailers  
18 use those soaring ceiling heights to create signature  
19 spaces. If we look at where attractive and successful  
20 retail has located in the District, we find it in old  
21 department stores such as Borders in the old  
22 Garfinkels building, or H and M in the old Woodward  
23 and Lothrop building.

24 We find Barnes and Noble in an old car  
25 showroom in Georgetown. D.C. Coast in the grand,

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1 ground floor of 1401 K Street, or others in new  
2 buildings where there is an upgrade change to generate  
3 sufficient ground floor ceiling height, such as Barnes  
4 and Noble and ESPN Zone on 12<sup>th</sup> Street, N.W.

5 First floor heights in new developments  
6 should not be artificially limited to ten feet, and  
7 sometimes even less, due to constraints on commercial  
8 building heights.

9 Ground floor ceiling heights should be  
10 high enough to allow a restaurant to successfully  
11 install creative lighting, or even a chandelier. An  
12 apparel retailer to double or even triple hang  
13 merchandise, and have enough height to use fly-in  
14 display techniques to showcase that merchandise.

15 Or a Dry Cleaner to build a carousel which  
16 can hold enough product to serve its clientele.  
17 Darkly tinted glass should not be used in retail  
18 storefronts.

19 Clear glass should be encouraged to  
20 showcase the retailer's merchandise and attract  
21 pedestrians into the shop. We note that the request  
22 for increased ground floor retail height is already  
23 being incorporated in several pending zoning text  
24 amendments for neighborhood commercial areas.

25 And we recommend that the increased first

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1 floor heights be encouraged in all new developments.  
2 In neighborhoods such as Takoma, Columbia Heights,  
3 Georgia Avenue-Petworth, Georgia Avenue-Shaw, Howard  
4 University, Rhode Island Avenue, from 4<sup>th</sup> to 24<sup>th</sup>  
5 Streets, N.E., and 4<sup>th</sup> Street, N.E., one block north  
6 and two blocks south of Rhode Island Avenue.

7 Minnesota-Benning, H Street, from 2<sup>nd</sup> to  
8 14<sup>th</sup> Street, Eastern Market, acknowledging their start  
9 designation there. The Potomac Avenue Metro and  
10 Kennedy Street, from Georgia Avenue and 2<sup>nd</sup> Street,  
11 N.W.

12 Many of the neighborhoods listed will  
13 include transit-oriented development on which the  
14 additional ground floor ceiling heights will have an  
15 enormous impact.

16 DCBIA supports the Office of Planning's  
17 proposed definitions under consideration by the Zoning  
18 Commission in this case. We also respectfully request  
19 that the Office of Planning and the Zoning Commission  
20 require higher ground floor ceiling heights, only in  
21 those locations where it can be accompanied with  
22 matter of right. Additional total building height and  
23 retail and arts tenants are to be encouraged.

24 We are excited by what a significant  
25 increase in the height of retail and arts spaces can

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1 mean, and urge you and the Office of Planning to  
2 consider the advantages of additional ground floor  
3 ceiling height described here, and particularly in the  
4 context of transit-oriented developments.

5 Thank you for taking the comments of DCBIA  
6 regarding these issues into considerations. Thanks.

7 CHAIRPERSON MITTEN: Thank you. Any  
8 questions for Mr. Harris? Any questions?

9 (No response.)

10 CHAIRPERSON MITTEN: We don't take  
11 questions from the Office of Planning, Mr. Cochran.

12 (Laughter.)

13 MR. COCHRAN: I just thought that Mr. Mann  
14 raised a very good point about the fire suppression  
15 systems and it may be appropriate to include that in  
16 Section 199.1B, Components of Mechanical, Plumbing, or  
17 fire suppression systems.

18 CHAIRPERSON MITTEN: Do you mean Mr.  
19 Hildebrand?

20 (Laughter.)

21 MR. COCHRAN: Yes, I do mean Mr.  
22 Hildebrand, I'm so sorry.

23 COMMISSIONER HILDEBRAND: That's okay, I  
24 didn't mind being Mr. Mann for a moment.

25 (Laughter.)

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1 CHAIRPERSON MITTEN: Okay.

2 COMMISSIONER HILDEBRAND: One bald guy  
3 looks like another.

4 (Laughter.)

5 CHAIRPERSON MITTEN: Thanks, Mr. Harris,  
6 good to see you.

7 MR. HARRIS: Thank you.

8 CHAIRPERSON MITTEN: To a guy who has hair,  
9 maybe that's true.

10 (Laughter.)

11 CHAIRPERSON MITTEN: Is there anyone else  
12 who would to testify in support in Case Number 04-31?

13 (No response.)

14 CHAIRPERSON MITTEN: Anyone in opposition?

15 (No response.)

16 CHAIRPERSON MITTEN: All right, then, I  
17 don't think, since we have no opposition and we have  
18 one suggested change, if, Mr. Cochran, would you just  
19 read that one more time, for the suggested change?

20 MR. COCHRAN: Components of mechanical,  
21 plumbing, or fire suppression systems;.

22 COMMISSIONER HILDEBRAND: Madam Chair, can  
23 I follow up on one of your questions?

24 CHAIRPERSON MITTEN: Sure.

25 COMMISSIONER HILDEBRAND: And it has to do with

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1 the idea of architectural features within ceilings.  
2 And I think it's a really valid questions.

3 Is there anything in this text that would  
4 preclude you from doing an architectural soffit or  
5 beam to delineate spaces within a floor plan, that  
6 would then restrict you to measuring the ceiling  
7 height to the bottom of the soffit, instead of the  
8 bottom of the ceiling?

9 But typically, in an older building, you  
10 might have a series of column lines and grids and  
11 even though they are not the structural columns,  
12 they're just architectural features that enliven the  
13 ceiling plane.

14 MR. COCHRAN: Exactly. And they are  
15 architectural features. Anything dropped from the  
16 finished ceiling would be permitted under this.

17 The idea was to define the space that is  
18 provided by the building owner, independent of how it  
19 might be fitted out by Retailer A, that starts in the  
20 space, Retailer B, that then takes over the space,  
21 etcetera.

22 COMMISSIONER HILDEBRAND: So non-structural  
23 soffits ?

24 MR. COCHRAN: Correct.

25 COMMISSIONER HILDEBRAND: ? would be

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1 considered allowable to descend below without  
2 violating the clear ceiling height?

3 MR. COCHRAN: That's right. We certainly  
4 want to permit flexibility, the choice of the  
5 retailer.

6 COMMISSIONER HILDEBRAND: Thank you.

7 CHAIRPERSON MITTEN: Anyone else?

8 (No response.)

9 CHAIRPERSON MITTEN: Okay, well then I  
10 would move approval of Case Number 04-31, with the  
11 addition of the language in B, to add, or fire  
12 suppression systems.

13 COMMISSIONER HILDEBRAND: Second.

14 CHAIRPERSON MITTEN: Thank you. Any  
15 discussion?

16 (No response.)

17 CHAIRPERSON MITTEN: All those in favor,  
18 please say aye. Aye.

19 (Chorus of ayes.)

20 CHAIRPERSON MITTEN: I don't believe we  
21 have any opposed, Mrs. Schellin?

22 MS. SCHELLIN: Staff will record the vote  
23 five to zero to zero, to approve Case Number 04-31, as  
24 modified. Commissioner Mitten moving, and, I'm sorry,  
25 I did not catch ?

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1 CHAIRPERSON MITTEN: It was Commissioner  
2 Hildebrand.

3 MS. SCHELLIN: Commissioner Hildebrand  
4 seconding. Commissioners Jeffries, Hood and Parsons  
5 in favor.

6 CHAIRPERSON MITTEN: Thank you. And just  
7 so that everyone knows, this will be referred to the  
8 National Capital Planning Commission, and then it will  
9 be published in the D.C. Register as a proposed rule-  
10 making for a 30-day comment period.

11 So now we are ready to move to the next  
12 case, which is Case Number 05-01, and this is a  
13 request by the Office of Planning for a text amendment  
14 to the zoning regulations, to allow adult development  
15 centers under the same circumstances as child or  
16 elderly development centers are permitted.

17 And, as was the case with the previous  
18 hearing, the Notice was published in the D.C. Register  
19 on February 4<sup>th</sup>, 2005. And I won't read the whole  
20 opening statement again, because the circumstances of  
21 the case are the same, and the order of procedure will  
22 be same.

23 And, Mr. Hood is reminding me that this  
24 was supposed to start at 7:00. So are you ?

25 VICE CHAIRPERSON HOOD: I'll tell you why,

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1 Madam Chair. Last week or maybe week before last, we  
2 had the same situation. And I think we waited and  
3 someone did come in.

4 So I think if we're going to err on the  
5 side of caution, we probably want to wait until 7:00.  
6 That's just my recommendation.

7 CHAIRPERSON MITTEN: Okay, well, then what  
8 I'll do is rather than starting again with the opening  
9 statement, we'll just adjourn for five minutes and go  
10 right into the presentation by the Office of Planning  
11 at 7:00. Okay, so we're adjourned for five minutes.

12 (Whereupon, the foregoing matter  
13 went off the record at 6:55  
14 p.m., and went back on the  
15 record at 7:00 p.m.)

16 CHAIRPERSON MITTEN: We're back on the  
17 record. Good evening, ladies and gentlemen. I had  
18 read the opening statement for the second case, which  
19 is the case that has to do with adult development  
20 centers.

21 And I'll just remind folks of a couple of  
22 things before we go forward that I had read earlier.  
23 Which is that organizations will have five minutes to  
24 testify, individuals will have three minutes to  
25 testify.

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1           And anyone who is planning on testifying  
2 this evening, needs to fill out two of the witness  
3 cards that are on the table in front of us or on the  
4 table near the door.

5           And then before you come forward to speak  
6 to the Commission, just give those cards to the  
7 Reporter, who is sitting to our right, and then we'll  
8 just help you along from there.

9           So first we will have the presentation by  
10 the Office of Planning.

11           MS. THOMAS: Good evening, Madam Chair,  
12 members of the Commission. For the record, I'm Karen  
13 Thomas for the Office of Planning.

14           The Office of Planning is proposing a text  
15 amendment to provide for Adult Development Centers  
16 within the use classification of Child/Elderly  
17 Development Centers, as identified throughout the  
18 current zoning regulations.

19           What led to this request for an amendment  
20 was the District Court of Appeals remand of Metro Day  
21 Treatment Centers Appeal Case Number 16839, where the  
22 D.C. Court of Appeals summarily determined that  
23 defined uses may not be interpreted to other uses that  
24 are functionally comparable, such as a Day Treatment  
25 Center which may be similar, but with respect to the

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1 nature of the use and the impacts of the use on the  
2 public.

3 Therefore, because Metro Day's program was  
4 not principally for children or the elderly, the Court  
5 of Appeals determined that Metro Day could not qualify  
6 as a child or elderly development center, as a matter  
7 of law.

8 And that vacated the Board's Order. As  
9 Petitioner, OP's analysis involves a brief review of  
10 the programming on day treatment centers as proposed  
11 in the revised text, in an effort to determine whether  
12 their operations are comparable in use and impact to  
13 other facilities in the assigned-use category.

14 As outlined in our report, a number of  
15 existing facilities in the District provide these  
16 services to District residents. And their services  
17 aim to provide, aim to improve their client's  
18 independence and community exposure.

19 These centers cater to a range of ages,  
20 and we also provide services to seniors, who may only  
21 need daycare supervision.

22 Programs include special education  
23 counseling, parent training, skill building, crisis  
24 intervention and recreational therapy. And may work  
25 in conjunction with mental health, recreation and

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1 educational organizations. Based on a common theme  
2 expressed in the standard definition, applied by local  
3 area jurisdictions and the District, as well as  
4 existing operations, a day treatment program can be  
5 incorporated into the programming of the child or  
6 adult development center.

7 Or exist as a stand-alone facility for  
8 youths as well as adults. Therefore, day treatment  
9 programs, operated by an adult or child development  
10 center, may differ based on the age of the client  
11 population, but not on the nature of the use.

12 Similarly, if the nature of the uses are  
13 comparable, the impact due to traffic and parking  
14 would have a similar effect.

15 Since the centers provide care and  
16 services to individuals who typically do not drive,  
17 the parking space requirement should be based on the  
18 number of employees and staff, rather than the cross-  
19 flow area.

20 The District Department of Transportation  
21 also concurred with OP on this determination, and the  
22 parking space requirements should be similarly  
23 categorized.

24 These centers are supported throughout the  
25 comprehensive plan by many of the ward objectives and

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1 human service policies. The comp plan ward elements  
2 promote de-institutionalization of clients in a  
3 setting which would allow participants to become  
4 reintegrated to fully participate in community life.

5 According to information provided by the  
6 Department of Human Services, there are approximately  
7 38 Medicaid-sponsored service providers in the  
8 District, which provide adult and day treatment  
9 programs in a less restricted environment.

10 Many of these facilities managed  
11 federally-support programs and are designed to provide  
12 necessary services for an under-served population.

13 The Office of Planning, in consultation  
14 with the Office of the Attorney General and DHS,  
15 supports the inclusion of adult development centers in  
16 the same use category as child or elderly development  
17 centers.

18 Since they are comparable with the service  
19 functions of existing development facilities in the  
20 District, regardless of the ages of the client  
21 population.

22 The Office of Planning recommends the  
23 approval of these amendments as outlined in OP's  
24 report, and this concludes our testimony. Thank you.

25 CHAIRPERSON MITTEN: Thank you. Questions

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1 for Ms. Thomas? Mr. Hood.

2 VICE CHAIRPERSON HOOD: Ms. Thomas, on Page  
3 3 of your report of March 31<sup>st</sup>. This table here didn't  
4 help me.

5 MS. THOMAS: Yes. Yeah, I'd like to point  
6 out, a point of clarification on the Residential R-4  
7 to R-5 uses. It should read matter of rights/special  
8 exception, because for the R-4, in the R-4 zone, it's  
9 a matter of right up to 16 persons.

10 And, similarly in the R-A, B and C, it's a  
11 matter of right with no more than 16. In the R-5, D  
12 and E, it's a matter of right with no more than 25  
13 individuals. And after that the special exception  
14 process kicks in.

15 So that should read matter of  
16 right/special exception.

17 VICE CHAIRPERSON HOOD: And as for the R-4,  
18 R-5?

19 MS. THOMAS: Yes, that's R-4, R-5.

20 VICE CHAIRPERSON HOOD: Now, and this is  
21 the way it currently exists for child/elderly, right?

22 MS. THOMAS: Yes.

23 VICE CHAIRPERSON HOOD: And let me ask you  
24 a question. I know it looks very simple to just add  
25 the word adult, but one of the things, when you say

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1 child/elderly, and I don't know if we can talk about  
2 the remand, because I don't think that's proper,  
3 because I think that's still in front of the BZA.

4 But when you add the word adult, could  
5 bring some different impacts. Has that been looked  
6 into? Because when I look at the definitions, we're  
7 talking about counseling and some other things which  
8 apply to those various ? my issue is counseling.

9 Because then you start talking about drug  
10 treatment and different types of things. Has that  
11 been looked at in the Office of Planning's thought  
12 process?

13 MS. THOMAS: Yeah, we looked at, we focused  
14 on the day treatment centers which are typically run  
15 by these adult and child development centers. And  
16 some of the program, a lot of the program, rather, is  
17 similar in its function.

18 They do, for instance, when we had a BZA  
19 case with the Darrell Youth Life Learning Center, they  
20 had, it was primarily child development, however, they  
21 did incorporate some adult in it in the afternoon, and  
22 the programming was similar.

23 VICE CHAIRPERSON HOOD: I know what we're  
24 trying to do here, and maybe I'll let somebody else  
25 try, because I'm interested in hearing the comments.

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1 But I'm just wondering if we have really realized the  
2 impact. And even though it's the word adult, but  
3 there are some other things that come along with it.

4 Because the way I see this, especially  
5 when you say R-4 and R-5, again, the same old story,  
6 it always just ends up in a certain part of the city.

7 And I think that's one of the concerns that, at least  
8 through the years that I've heard.

9 I don't know how this will impact here,  
10 but what I'll do is just hold off and wait, because I  
11 seems like it's always in a certain, specific area,  
12 that these things go on. But anyway.

13 MS. THOMAS: Well, remember it's, in R-4 ad  
14 R-5, it can only be in a church up to 16, 16 members.

15 It can only be in church. Otherwise, anything else  
16 beyond that, it kicks out into a special exception, as  
17 a special exception, plus it's like every other  
18 residential zone district.

19 VICE CHAIRPERSON HOOD: But I know once you  
20 hit that number, then you go into the special  
21 exception process.

22 MS. THOMAS: And also in location, I mean  
23 if it's outside of a church.

24 VICE CHAIRPERSON HOOD: Outside of a  
25 church?

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1 MS. THOMAS: Yes.

2 VICE CHAIRPERSON HOOD: I just think that  
3 there's an impact, and I don't know if we've looked at  
4 it. Maybe I just don't understand, but I think  
5 there's another, there's a more significant impact  
6 with adding the word adult.

7 And maybe we need to re-look at that.  
8 But, anyway, I'll wait to see what the conservation is  
9 and I'll wait to see what people have to say. Thank  
10 you.

11 MS. THOMAS: Sure.

12 CHAIRPERSON MITTEN: Thank you, Mr. Hood,  
13 Mr. Parsons?

14 COMMISSIONER PARSONS: Ms. Thomas, your  
15 report, at least the copy I got, did not have the  
16 attached listing on the footnote at the bottom of Page  
17 7.

18 Maybe we don't need to do that. But I'm  
19 trying to understand the magnitude of this. What the  
20 narrative says is there's 38 Medicaid-sponsored  
21 service providers of these day treatment programs in  
22 the District.

23 And how many centers does that result in?  
24 Do you know?

25 MS. THOMAS: Well, the list I, I based it

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1 on what the list that was sent to me from DHS, and it  
2 was about 38, on that list, I think, one, two, three,  
3 four ?

4 COMMISSIONER PARSONS: So all of these  
5 providers then have one center. There's nobody doing  
6 this on a multiple basis with one of these purveyors,  
7 go ahead, I'm sorry.

8 MS. THOMAS: Repeat the question, sorry.

9 COMMISSIONER PARSONS: Well, I now have the  
10 chart, so that's helpful. But each organization of  
11 the 38 that you mentioned, only has one facility, is  
12 that correct?

13 MS. THOMAS: Each client, yes, one  
14 facility.

15 COMMISSIONER PARSONS: So do you anticipate  
16 from your research that what we're doing here tonight  
17 is going to result in a vast increase in these  
18 facilities or, I think that's what Mr. Hood is getting  
19 at.

20 Is what we're doing tonight going to  
21 result in 100 of these, or is there anyway to predict  
22 that?

23 MS. THOMAS: I have no way of predicting  
24 that, but when I look at where these facilities are  
25 located, that they don't seem to have any one area of

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1 concentration.

2 They range through the District from  
3 northwest to southwest to Wisconsin Avenue to ? they  
4 don't seem to be located within, you know.

5 COMMISSIONER PARSONS: So some of these on  
6 the chart appear to be in other jurisdictions.  
7 Baltimore, Alexandria, Oxon Hill, Maryland, Bethesda.

8 MS. THOMAS: Some of ?

9 COMMISSIONER PARSONS: Is that their home  
10 office or are these the locations of the facility?

11 MS. THOMAS: These, what I have here is  
12 what the District, this is what the District  
13 regulates. These are the programs under the District  
14 operation.

15 And have applied to the District, to DHS,  
16 and have some form of federal, Medicaid funding.

17 COMMISSIONER PARSONS: Ah, ha. So this may  
18 be the location of the organization, not the facility  
19 they are managing?

20 MS. THOMAS: Yes, umm hmm, umm hmm.

21 MS. MCCARTHY: If you look at St. Coleta's,  
22 for example, which is on Page 12, as we know they  
23 are, their headquarters are in Alexandria, but they  
24 are looking to provide treatment in Washington, within  
25 the District, yes.

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1 VICE CHAIRPERSON HOOD: Mr. Parsons, when I  
2 look at the list, I see mostly 20018 and 20017. That  
3 stands out for me. Just a personal observation.

4 CHAIRPERSON MITTEN: Anything else? Okay.  
5 I wanted to ask a couple of things. One is, the  
6 thing that seems to be the distinguishing  
7 characteristic for the adults, would be that these  
8 would be individuals with disabilities, is that  
9 correct?

10 MS. THOMAS: All of them, child, adult and  
11 elderly, cater to individuals with disabilities.

12 CHAIRPERSON MITTEN: It doesn't seem to,  
13 that doesn't seem to be the case. What it says is, is  
14 that the facility ? I'm trying to leave out some of  
15 the words just to make a clear statement.

16 That the facility would be for a variety  
17 of things. Care, education, counseling, training, of  
18 individuals 15 years of age or less, that's one  
19 category.

20 Elderly individuals, that's another  
21 category. Individuals with disabilities would be a  
22 third category. So it seems like what, the sort of  
23 distinguishing characteristic of the adults is that  
24 they're individuals with disabilities.

25 And that qualifier may or may not apply to

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1 people who are, who would otherwise be considered  
2 children or elderly. Is that ?

3 MS. THOMAS: That's correct.

4 CHAIRPERSON MITTEN: So then I guess the  
5 question is what do we mean by individuals with  
6 disabilities? So, I mean, because people are, I think  
7 there's some concern about, well who exactly are we  
8 targeting and what might we be allowing into our  
9 neighborhoods, that we're not thinking through  
10 entirely.

11 So are these, is there anyway that we can  
12 define that better, so that it doesn't include people  
13 that we don't expect to be included. Is there, you  
14 know, did you draw on any resources from, you know,  
15 the mental health community.

16 I don't know who else, the Department of  
17 Health, the Department of Human Services, that could  
18 give us a better sense of who is in and who is out,  
19 when we're talking about individuals with  
20 disabilities.

21 MS. THOMAS: When we looked at some of the  
22 institutions and some of the programming, for  
23 instance, I do believe if you look at Arlington County  
24 Express, what they did at their treatment center  
25 expresses it will, as well as the definition used by

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1 the District for the, for what is, what is typically  
2 an adult development center, providing the day  
3 treatment.

4 CHAIRPERSON MITTEN: So, well, what it  
5 seems to say in Arlington County is that these are,  
6 that their definition of individuals with disabilities  
7 are individuals who have physical and/or cognitive  
8 impairment.

9 MS. THOMAS: As well as in the District,  
10 yes. From what DHS, information DHS provided for me,  
11 it's a major aspect of their programming.

12 CHAIRPERSON MITTEN: Okay.

13 MS. THOMAS: Programs that are designed for  
14 individuals with mental retardation and development  
15 disabilities.

16 CHAIRPERSON MITTEN: Okay, I think I have a  
17 sense of what, how we could possibly narrow that.  
18 Here's another question, and this is one of the  
19 distinctions, maybe, Mr. Hood was trying to get at.

20 When we talk about the impact, if we just  
21 treat them as we would a child development center or  
22 an elderly development center, one of the things that  
23 we don't expect, typically for, certainly for children  
24 and not to any great degree for the elderly, is we  
25 don't expect the individuals who are being served, to

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1 be driving themselves.

2 But we don't know that the same will be  
3 true for adults. Because they may have some  
4 impairment, but it may not be such that they can't  
5 drive.

6 So, I don't know to what extent you  
7 thought through whether or not the parking  
8 requirements were really, should be the same, or there  
9 might actually be a greater need for an adult  
10 development center for more parking.

11 MS. THOMAS: Well, from talking to DHS,  
12 they, they, when we discussed that part of it, they  
13 said typically their clients don't really drive there.  
14 They don't have license, you know, and other  
15 situations, they don't have license.

16 Those who could possibly get around, it's  
17 more of an indigent population, if you would.

18 CHAIRPERSON MITTEN: Okay, so is it because  
19 they're physically or cognitively impaired or because  
20 they are too poor to have a car?

21 Because we're not making an economic  
22 distinction here. So do you have a sense of what's  
23 driving it or not. Or what's driving the fact that  
24 they are not, of what is affecting the fact that  
25 they're not driving?

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1 MS. THOMAS: Typically it's more  
2 handicapped or cognitive impairment.

3 CHAIRPERSON MITTEN: Okay, okay. Anybody  
4 else, questions for Ms. Thomas? Mr. Hildebrand?

5 COMMISSIONER HILDEBRAND: Would this  
6 definition include people who had a significant  
7 psychological difficulty.

8 And I guess my concern is at what, is  
9 there any risks associated with this group outside of  
10 the facility?

11 MS. THOMAS: I'm not, I don't think I'm ?

12 COMMISSIONER HILDEBRAND: Like disturbed as  
13 opposed to impaired?

14 MS. THOMAS: I know it addresses the  
15 psychologically impaired, but I don't think I'm  
16 qualified to determine the risk, in terms of medical  
17 evaluation as to the risk.

18 MS. MCCARTHY: I think what they are trying  
19 to get at is, is the population that we're looking to  
20 serve with this, essentially, people with either  
21 developmental disabilities or elderly people who are  
22 house-bond and who need activities, you know, or  
23 somebody to keep an eye on him, keep him active during  
24 the day.

25 But they are not people with serious

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1 psychological issues or other impairments that, you  
2 know, do we have ?

3 MS. THOMAS: There is psychological  
4 impairment, but people who are functionally able, but  
5 they might need help to be integrated into society,  
6 you know, to be able to live on their own.

7 Teach them skills to how they could live  
8 on their own. Like say for those who are not that  
9 physically impaired.

10 MS. MCCARTHY: If I understand the  
11 Commission's questions correctly, you were trying to  
12 figure out how to, how to perhaps better define the  
13 adult population that we're talking about providing  
14 services for, and to distinguish that between, say,  
15 clinic services that may have, also have counseling as  
16 accessory uses, but, yeah, and it looks like maybe we  
17 could do some further research on that and come back  
18 to you with some more precise definitions.

19 CHAIRPERSON MITTEN: I think that would be  
20 helpful. Anyone, Mr. Jeffries?

21 COMMISSIONER JEFFRIES: Yes, definitions  
22 and perhaps, just for my sake, I just want to get a  
23 better handle on just, you know, looking at data  
24 about, you know, the type of populations that are  
25 typically going to these centers.

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1           And I just want to get a better handle on,  
2           just, what percentages of them are, you know,  
3           suffering from psychological issues or all physical  
4           impairments.

5           I mean, I just want something that would  
6           get us comfortable as to the types of populations that  
7           we can expect in this new definition. And I think  
8           that could be a good driver for us, in terms of  
9           getting comfortable with where this is going.

10           CHAIRPERSON MITTEN: Mr. Hood.

11           VICE CHAIRPERSON HOOD: Madam Chair, if I  
12           could just ask the Office of Planning just something  
13           here. The definition, you don't support the  
14           definition of day treatment being included in the  
15           definition.

16           You don't support, Ms. Thomas, the  
17           definition of day treatment being in the regulation?  
18           What I see, according to Page 6?

19           MS. THOMAS: Yes, yes, we do not, I don't,  
20           we didn't want to define that. We think it's better  
21           defined through the Department of Mental Health. The  
22           same way that the define what a day treatment program  
23           is.

24           That's where we got that definition. It's  
25           part of their service.

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1 VICE CHAIRPERSON HOOD: So you would rather  
2 leave that out of the definition?

3 MS. THOMAS: Of the zoning regulations,  
4 yes.

5 VICE CHAIRPERSON HOOD: Okay, thank you.

6 CHAIRPERSON MITTEN: Anyone else?

7 (No response.)

8 CHAIRPERSON MITTEN: Okay, I don't think we  
9 have reports by any other Government Agencies. Is  
10 there any one here ? I know we have some single-member  
11 district Commissioners, but is there anyone here  
12 actually representing an ANC?

13 You have a letter authorizing you to  
14 represent the ANC? Because we would need that. We'll  
15 hear from you, it's just we won't hear from you at  
16 this particular time.

17 Okay? We'll hear from you. So now we'll  
18 take organizations and persons in support. And I have  
19 one person who actually checked my witness list as  
20 being in support, but we'll have whoever, whoever else  
21 might be a proponent to come forward.

22 But I don't see her, Regina James? Okay,  
23 is there anyone who would like to testify in support,  
24 then?

25 (No response.)

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1 CHAIRPERSON MITTEN: Okay, fine, well then  
2 we'll move to organizations and persons in opposition,  
3 and then I'll just work through the list. Mr. Brannum  
4 Ms. Jackson, we're just going to fill up a panel and  
5 you can give the cards over to the Reporter.

6 Mr. Knott, Rudolph Knott, and Frank  
7 Malone. Okay, we'll start with those three and see  
8 where we go from there.

9 So each of you will then have three  
10 minutes for testifying as individuals. Mr. Brannum,  
11 why don't you go ahead.

12 MR. BRANNUM: Good evening. My name is  
13 Robert Brannum, I'm Commissioner 5C04, and I, the ANC  
14 5-C did take a vote to have me represent the  
15 Commission.

16 Unfortunately, I don't have that  
17 Resolution here in front of me, but the ANC, for the  
18 record, did oppose the change.

19 And the rationale is that we feel that  
20 the, it should remain a special exception, rather than  
21 as a matter of right. And we, it would have been  
22 helpful to us to have had the statement and position  
23 of the Office of Planning, before we had an  
24 opportunity to come here.

25 As a Government Agency, routinely their

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1 positions would be known before we come, but I think  
2 that when the Government comes in as a Petitioner, in  
3 this instance, that their rationale for what they're  
4 presenting, should be made available so that we can,  
5 so we're in a better position to understand the  
6 rationale for its position.

7 We don't have that benefit. And some of  
8 the questions that you have, you have because you have  
9 the information in front of you.

10 We, sitting here, we didn't have it  
11 before. All we had was the Commission's order or  
12 statement saying that it was holding the hearing. So  
13 based on the change, as it was presented, we would  
14 naturally be opposed to it.

15 The rationale that was given, that may be  
16 given by the Office of Planning, may or may not have  
17 affected our position, but it would have been helpful  
18 to have had that position before.

19 And as a Government Agency coming in, it  
20 should consider providing that notice to the ANCs  
21 along with any proposed rule-making consideration.

22 One of the issues for me would be the  
23 classification definition of adult treatment. I don't  
24 think you can say that the adult treatment center has  
25 the same, similar characteristics or benefit for a

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1 child.

2 I don't think that's, that works for me.  
3 The adult treatment development centers can be used  
4 for bringing in drug treatment, alcohol treatment,  
5 other kinds of services. And Ward 5 is over burdened  
6 with those kinds of services.

7 Not to say they aren't needed, but I think  
8 they should come in with the support of the community,  
9 with prior notice to the community, rather than have  
10 it brought in as a matter of right.

11 So, the opposition is not to the treatment  
12 itself, it's just to how they come in. I think that's  
13 the critical point for us. We're not opposing it, we  
14 just feel the matter of, how you come into the  
15 neighborhood.

16 My time is up, so I'll leave it there. If  
17 we have some more chances, I'll come back.

18 CHAIRPERSON MITTEN: Okay, we're going to  
19 do the whole panel and then we'll ask questions, okay?

20 Thank you, Commissioner. Would you shut off your  
21 microphone, terrific, thank you.

22 MS. JACKSON: Good afternoon, Zoning  
23 Commissioners and other ANCs, fellow citizens of the  
24 District and distinguished guests. My name is Enid A.  
25 Jackson, I am Ward 5, ANC single-member district 5A09

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1 Commissioner.

2 I have been a resident of Ward 5 community  
3 for other three years. I am here today to testify  
4 regarding the proposed text amendment to DCMR 11,  
5 designating adult development centers as a use  
6 permitted by special exception or as a matter of  
7 right.

8 In my opinion, and in the opinion of many  
9 of my constituents, that this proposed text amendment,  
10 as currently worded, is wrong and not in the best  
11 interest of my community.

12 Several prevailing questions regarding the  
13 amendment, must be answered to my satisfaction before  
14 it can earn my support. What are the governing  
15 policies and procedures for the operation of an adult  
16 development center?

17 And why is it so hard for ANC  
18 Commissioners to obtain information on ADCs? Why is  
19 information on the current number of child and senior  
20 development centers located per Ward throughout the  
21 city, so difficult to obtain.

22 Does the proposed amendment have a  
23 location within a particular radius of another ADC  
24 limitation. For example, 100 feet, 200 feet, 500  
25 feet? If not, why not?

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1                   Why did the Zoning Commission follow the  
2                   Office, Counsel's suggestion, may we wish to define  
3                   the term elderly in order to avoid misinterpretation.

4                   All right. I believe the number of adults covered by  
5                   the amendment should be limited based on the physical  
6                   limitations of the adult development center, but  
7                   should not be open-ended, as in the case in the  
8                   proposed amended current reading.

9                   The proposed text amendment needs further  
10                  study and review before it should be seriously  
11                  considered for passage. There needs to be written  
12                  assurance in place that guarantees that the placement  
13                  of these adult development centers, is fairly and  
14                  equally disbursed throughout all eight Wards of the  
15                  city.

16                  With provisions made for adequate  
17                  monitoring checks and balances to ensure that these  
18                  ADCs operate in full compliance with District zoning  
19                  and other laws.

20                  The zoning regulation should be amended to  
21                  include a no sleep over provision, so ADC operations  
22                  cannot get around that, who are present for less than  
23                  24 hours per day, by shuttling clients off the  
24                  premises for an hour or so during the day.

25                  The current C-2A, zoning restrictions

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1 should be maintained for ADCs. An official assessment  
2 of the potential traffic and parking impacts ?

3 (Timer sounded.)

4 CHAIRPERSON MITTEN: You can just go ahead  
5 if you only have a couple of more sentences.

6 MS. JACKSON: Okay. Impacts of the ADCs is  
7 proposed residential targets should be done before  
8 acting on the proposed amendment.

9 Simply saying it would be the same as with  
10 child or elderly development centers, is not good  
11 enough. Okay. Thank you. Thank you, Commissioners  
12 for providing me with the opportunity to share with  
13 you the viewpoints of the citizens and residents of  
14 Ward 5, single-member District 5A09, on this very  
15 important and potentially-troubling issue.

16 We hope and trust that you will give  
17 serious considerations to some of our concerns  
18 regarding this amendment in your deliberations. Thank  
19 you.

20 CHAIRPERSON MITTEN: Thank you,  
21 Commissioner Jackson. Mr. Knott.

22 MR. KNOTT: Thank you. I'm Rudolph Knott,  
23 Jr., ANC Commissioner for 5A10, and I'm going to take  
24 this opportunity to voice my opposition to new  
25 facilities such as, the so-called treatment centers or

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1 residential-based facilities being established in  
2 residential neighborhoods as a matter of right.

3 My constituents and I feel that these  
4 facilities are inundating our communities. I  
5 understand the need for treatment and the care for our  
6 citizens, but I feel our communities have the right to  
7 be informed where and by whom these kinds of  
8 establishments are planted in our neighborhoods.

9 It appears to many of us that the  
10 government of the District of Columbia does not have a  
11 handle on these facilities as it is. And as the  
12 government doesn't seem to be able to provide our  
13 constituents with locations of current facilities, how  
14 can there be effective oversight ensuring that they do  
15 not negatively impact residential neighborhoods.

16 My Commission, ANC 5A, has recently past a  
17 Resolution calling for a Moratorium on any more such  
18 facilities in Ward 5, until we can get a city-wide  
19 accounting of all establishments of this kind.

20 I think if we want our citizens to support  
21 these establishments, we need to make sure the  
22 community has some meaningful input into such  
23 proposals.

24 We must ensure that Contractors who  
25 provide these services, do not do so to the detriment

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1 of our communities. Our citizens need to be empowered  
2 to effect change if there's negligence on the part of  
3 the providers. In order to ensure that the  
4 communities are properly notified, and included in  
5 future plans, I oppose any changes in regulations that  
6 would allow providers to more easily establish  
7 facilities, without having to go before the community  
8 in forum such as this. Thank you.

9 CHAIRPERSON MITTEN: Thank you,  
10 Commissioner Knott. Questions for this panel? Mr.  
11 Hood.

12 VICE CHAIRPERSON HOOD: Yeah, let me just  
13 follow up on Commissioner Brannum. He mentioned, I  
14 think your ANC, you did, actually I believe, I'm not  
15 sure where we're going, but we may be able to get that  
16 from your ANC.

17 CHAIRPERSON MITTEN: The Resolution?

18 VICE CHAIRPERSON HOOD: Yes.

19 CHAIRPERSON MITTEN: Yeah, we would like to  
20 have the Resolution submitted, if you could get us a  
21 written copy.

22 VICE CHAIRPERSON HOOD: But let me ask you,  
23 you said you all voted in opposition to the word adult  
24 being in the definition, I mean to the word adult  
25 being added as a matter of right into the definition.

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1 Did I understand that correctly?

2 CHAIRPERSON MITTEN: When you respond, turn  
3 on your microphone, thank you.

4 MR. BRANNUM: We oppose the, we oppose the  
5 inclusion of adult, and also the inclusion as a matter  
6 of right.

7 VICE CHAIRPERSON HOOD: Well, there's  
8 obviously an issue in Ward 5, and it's good to see so  
9 many Ward 5 people. But I would say, it's obviously  
10 there is an issue, because I see quite a few Ward 5  
11 folks here.

12 Commissioner Knott and Commissioner  
13 Jackson, would you also agree with Commissioner  
14 Brannum, even though I know he is in 5C and you two  
15 are in 5A, would you agree with his statement about  
16 the word adult?

17 And I don't know if you heard our question  
18 up here. That was a concern of some of us, I know the  
19 Chair, myself and others may have had. But you also  
20 stated the word adult in this definition.

21 I mean, along with child and elderly,  
22 which may cause a potential problem or issue. Am I  
23 correct? If you want to turn your microphones on just  
24 so I can make sure we get it on the record.

25 MR. KNOTT: Yes.

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1 MS. JACKSON: Yes.

2 VICE CHAIRPERSON HOOD: That's a good yes  
3 or no question, thank you. Thank you, Madam Chair.

4 CHAIRPERSON MITTEN: Thank you. I did want  
5 to comment on a few things. First, to Commissioner  
6 Brannum. I understand completely that you, it would  
7 have been more desirable to have the OP report in  
8 advance.

9 And the reason there wasn't more in the  
10 file, is because that was a case, this case originated  
11 by, as a request from a Zoning Commissioner. So  
12 normally it would be initiated by the Office of  
13 Planning and they would write a report when it was set  
14 down for public hearing.

15 But it came off the dias, basically. So  
16 there wasn't any lengthy set down report outlining the  
17 rationale. So this is a kind of unusual circumstance.

18 So I think there will be additionally  
19 opportunity for dialogue on this subject. I wanted to  
20 comment, I think, Ms. Jackson, you have a lot of good  
21 ideas in your, in your testimony.

22 And, we, I mean, I think having a certain  
23 distance between locations is a good idea. It  
24 probably is a good idea to go back and define what  
25 elderly means, even though the focus of this is adult.

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1 But, you know, we are constantly trying to  
2 refine the ordinance. I also think that your  
3 suggestion about cleaning up the language that says  
4 that they are there for less than 24 hours a day.

5 I think that's ripe for somebody to try  
6 and figure out a work around, so I think that's a good  
7 suggestion. And one of the ? so in terms of asking  
8 for some follow up from the Office of Planning, I  
9 think these are issues that we would like some  
10 additional feedback about.

11 And one thing that Mr. Knott mentioned,  
12 you know, one of the reasons why you're having, that I  
13 think you're having difficulty finding out where the  
14 facilities are currently located, is because right now  
15 they are not called adult daycare centers, that  
16 doesn't exist.

17 So what I would like for the Office of  
18 Planning to follow up on with the Zoning Administrator  
19 is, if you describe, the reason that this case came  
20 forward, and Mr. Parsons, correct me if I'm wrong,  
21 that this was a special exception that came to the  
22 Board of Zoning Adjustment for this use.

23 But there may be these uses that are being  
24 put into the community that didn't come before the BZA  
25 as a special exception, that had been interpreted as a

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1 matter of right use by the Zoning Administrator and  
2 being called something else.

3 I think we would be very interested to  
4 know what that something else might be. And then,  
5 perhaps, find out where those facilities are located  
6 and get a better sense of that.

7 So I think these are, I think these have  
8 all been good suggestions, and we'll be studying this  
9 further, so we hope you'll follow us and continue to  
10 help us with this.

11 VICE CHAIRPERSON HOOD: Madam Chair, can I  
12 just add ? Commissioner Knott, if we could get your  
13 testimony, hopefully we'll be able to get that at a  
14 later date and we can make copies or however, we would  
15 appreciate it. Thank you.

16 CHAIRPERSON MITTEN: Anyone else have  
17 questions for this panel? Mr. Jeffries?

18 COMMISSIONER JEFFRIES: You know, I have to  
19 say that from time-to-time, you know, I am so much  
20 more compelled by testimony from those that are, you  
21 know, on the streets, so to speak, and who live and  
22 work and so forth.

23 And this is one of those instances where I  
24 got so much more out of some of the issues here,  
25 around these so-called adult development centers,

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1 listening to your testimony, than even reviewing the  
2 OP report.

3 And I was sort of wondering, you know, I  
4 know in the past we've done roundtables on different  
5 things, and I'm not necessarily trying to move back to  
6 that, particularly if the Office of Planning can  
7 really drill down and really start to educate the  
8 Commission.

9 But I just wanted to comment that you've,  
10 at least for me, raised my serious awareness to this  
11 issue and some of the concerns. And I just want to  
12 appreciate, just wanted to let you know that I  
13 appreciate your comments.

14 CHAIRPERSON MITTEN: Thank you. Okay,  
15 before we backtrack and go to persons in support  
16 again, anyone else in opposition that would like ?  
17 oh, I'm sorry, before you all go ?

18 COMMISSIONER PARSONS: Don't leave yet,  
19 please.

20 CHAIRPERSON MITTEN: Sorry.

21 COMMISSIONER PARSONS: The current child  
22 and elderly centers in Zones R-1 through 3, are by  
23 special exception. And in R-4, once you get to 16  
24 people it's a special exception.

25 Does that work in your community? That

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1 existing condition, forget the adult thing, just the  
2 child and elderly. I mean when you come here and say  
3 this should not be a matter of right, you didn't know  
4 that they're not supposed to be a matter of right.

5 So I'm trying to figure, ask you if that  
6 gives you any comfort, what you heard tonight, about  
7 these being treated the same as the adult, I mean as  
8 the child/elderly centers?

9 MR. BRANNUM: Part of, if I may, Mr.  
10 Parsons, part of my comments would have been that they  
11 all should be as a special exception, because given a  
12 matter of right they come in, and then trying to  
13 correct it or go against it, it becomes that much  
14 difficult and it becomes after they've already come  
15 in, they've set up.

16 They've incurred financial liabilities or  
17 hardships. They've got people coming into the  
18 communities. They're claiming they are providing a  
19 service, this, that and the other.

20 But, and we would seem almost like demons  
21 saying that children and the elderly shouldn't come  
22 into the community. And I don't think any of us feel  
23 that services, needed services should not be provided.

24 But there has to be some kind of  
25 recognition that too much can be too much. Because a

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1 good number of these are placed in clearly residential  
2 areas.

3 And it can be disruptive of traffic. It's  
4 disruptive for just normal community and neighborhood-  
5 ness, and it's not, may not so much be the clients,  
6 but the operators of those facilities that don't seem  
7 to want to really be sensitive to the concerns and  
8 needs of the community.

9 I mean, I mean, there's a triangle in my  
10 area that is known for being, ignoring the community.

11 You know, down off of North Capitol, P and New York  
12 Avenue. That treatment center, shelter, that triangle  
13 is causing havoc in our neighborhood, clearly havoc.

14 So a matter of a special exception would  
15 address some of those issues.

16 CHAIRPERSON MITTEN: Thanks. Anyone else?

17 Okay, thanks folks. Anyone else in opposition?  
18 Anyone else who'd like to testify in opposition?

19 (No response.)

20 CHAIRPERSON MITTEN: Okay, then we'll have  
21 Ms. James come forward. You need to push that little  
22 button.

23 MS. JAMES: Good evening. My name is  
24 Regina James, Advisory Neighborhood Commission for  
25 5B03, representing the Brentwood Community.

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1           Madam Chair and Zoning Commissioners, I do  
2 have testimony. I will bring it down to the office  
3 tomorrow. I'm going to wing it. Hopefully I can  
4 remember all that I attempted to type here for this  
5 evening.

6           Anyway, I wasn't privy to most of my  
7 colleagues information, but I believe that I'm in  
8 support of special exception. Special exception  
9 provides notice to the community.

10           It gives that notice to the ANC/SMD  
11 Commissioner and the Commission. If the Commission is  
12 dysfunctional, then you have the community can rely on  
13 their ANC Commissioner to get that information out.

14           Not only to the citizens, the civic and  
15 the concerned resident groups that are in our  
16 community, because we do have Commissioners in our  
17 Commission that are not actively involved.

18           They are, actively involved in their SMDs.  
19 They're not fully representing their community. I  
20 would not like to see the community penalized because  
21 of this type of dysfunction.

22           So I think if you provide the ANC/SMD  
23 Commissioner notice, that they could at least get that  
24 information out to the various citizens, civic and  
25 associations, so they could represent their case.

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1           Because, as in Ward 5, we were here, I  
2 think, 2003. Our communities are being inundated with  
3 groups homes, which come in as a matter of right and  
4 under federal regulation.

5           Then we have community-based residential  
6 facilities. Then we have what appears to be child,  
7 adult and elderly day centers. I don't have a  
8 problem. I don't want to beat up on the children and  
9 the elderly.

10           I don't have a problem with the word  
11 adult. Because some, when I think of adult, I'm  
12 thinking of the mentally challenged or people that  
13 have nervous and mental disorders.

14           But it does need to be defined, in that,  
15 what do you deem as adult. Because it could be a  
16 methadone, it could be a methadone program that comes  
17 in, under the auspices of daycare treatment.

18           And with the communities already being  
19 inundated, it would just provide the community notice  
20 for those Commissioners that are actively engaged to  
21 whatever circumstances that arise from these type of  
22 facilities.

23           Because we're not notified of the group  
24 homes. Anything that falls up under special  
25 exception, the Office of Zoning is good about

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1 notifying, not only the Commission, but the ANC/SMD  
2 Commissioner.

3 So, with that, I would be in support of  
4 special exception. But, as I state, I will submit my  
5 testimony, because I did provide it.

6 And I've indicated a number of questions  
7 that I would like for you to consider. In that the,  
8 because R-1A is the most restricted, if that zoning  
9 district is the most restricted, then everything else  
10 under it falls, we're all privy to.

11 So notice should be given to the  
12 community, in that, and I think, as Commissioner  
13 Jackson stated, we need to find out if we have one  
14 here, are we going to have one two or three house  
15 down.

16 You know, so we need to check the aerial  
17 radius of how far are we going to set these things  
18 apart. Because as one Commissioner, a former  
19 Commissioner, had indicated, he had seven group homes  
20 in one block.

21 And they all had problems. In that, I'm  
22 providing my community information, in that they can  
23 attack the federal funding. You can go after the  
24 funding if these people are not managing their  
25 properties sufficiently.

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1 CHAIRPERSON MITTEN: You need to wrap it up  
2 now.

3 MS. JAMES: Okay. And you wouldn't want to  
4 put a vulnerable population in a community where there  
5 is, where we seriously have crime problems. Thank  
6 you. And I will bring the testimony down tomorrow.

7 CHAIRPERSON MITTEN: Thank you. Any  
8 questions for Ms. James, before she goes? Mr. Hood.

9 VICE CHAIRPERSON HOOD: Just one quick  
10 question, Ms. James. I don't know if you heard  
11 Commissioner Brannum, and I'm trying to make sure  
12 we're all on the same page. You're listed as a  
13 proponent.

14 MS. JAMES: A proponent?

15 VICE CHAIRPERSON HOOD: A proponent of what  
16 was proposed, I think, on the ?

17 MS. JAMES: Yeah, I support ?

18 VICE CHAIRPERSON HOOD: You support ?

19 MS. JAMES: As special exception.

20 VICE CHAIRPERSON HOOD: So you would  
21 support the comments. I think your were here when  
22 Commissioner Brannum mentioned about the adult, the  
23 notification. That's basically the issue, let me cut  
24 to the chase.

25 MS. JAMES: Right, right.

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1 VICE CHAIRPERSON HOOD: Having notification  
2 throughout, with the exception of, because it's a  
3 special exception already as it exists as child and  
4 elderly in R-1 to R-3.

5 MS. JAMES: Right.

6 VICE CHAIRPERSON HOOD: And then it's a  
7 matter of right/special exception, what I was informed  
8 by Office of Planning, in the R-4 to R-5. Matter of  
9 right/special exception.

10 But you would like to see it as a special  
11 exception.

12 MS. JAMES: All of it as a special  
13 exception. Because it provides ?

14 VICE CHAIRPERSON HOOD: With adult only,  
15 with the word adult only.

16 MS. JAMES: Well, I don't have a problem  
17 with the word adult. First you have to define adult,  
18 because people that are mentally challenged do not  
19 really present a problem in the community.

20 People with nervous and mental disorders,  
21 generally do not provide a problem within the  
22 community. But if you're going to consider those  
23 people in a community, first you need to look at the  
24 public safety concerns of that area.

25 You wouldn't want to put a vulnerable

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1 population inside a community that is already  
2 stressed.

3 VICE CHAIRPERSON HOOD: Well,  
4 unfortunately, you all didn't get the report. As the  
5 Chair stated, it was initiated by another case on the  
6 BZA, but the Office of Planning is now recommending,  
7 not recommending that the term drug treatment center  
8 be in the definition.

9 MS. JAMES: Okay.

10 VICE CHAIRPERSON HOOD: So I don't know if  
11 that eases you some, but I do agree with the  
12 notification.

13 MS. JAMES: Right.

14 VICE CHAIRPERSON HOOD: But how we get to  
15 that point, I think, there's going to be some serious  
16 deliberation.

17 MS. JAMES: Yeah, well, yeah. I heard some  
18 of the discussion with regards to adults, but you  
19 don't want to penalize those adults that have nervous  
20 and mental disorders.

21 And I can't think of, people that grow up  
22 with Down's Syndrome that are able to live outside of  
23 their communities. You wouldn't want to penalize  
24 those kind of people, if they participate in a day  
25 treatment center.

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1 I think it needs to be, the word adult  
2 really needs to be defined.

3 VICE CHAIRPERSON HOOD: Okay, thank you,  
4 Commissioner James, and it's good to see Ward 5 folks.

5 CHAIRPERSON MITTEN: Yeah, we heard. Thank  
6 you. Anyone else, before we close it out?

7 (No response.)

8 CHAIRPERSON MITTEN: I just want to see if  
9 I can get a little consensus for some direction before  
10 we close this out.

11 I think for myself, one change in approach  
12 that we need to take is that we need a separate  
13 definition of adult development center, instead of  
14 trying to glom it together with these others.

15 And then we can, I think it will give us  
16 more freedom to decide where it should be in the  
17 ordinance and whether it should be a matter of right  
18 instead of trying to decide these as a, as if they  
19 were a cohesive entity.

20 Or that they were similar entities, that  
21 this will be called out separately and then we can  
22 move it around and modify it as necessary. Do we have  
23 a consensus about that? Okay.

24 So, anyone else want to make any  
25 suggestions before we ?

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1 VICE CHAIRPERSON HOOD: Madam Chair, I  
2 think, Ms. Jackson, if we can incorporate that ?

3 CHAIRPERSON MITTEN: Oh, definitely.

4 VICE CHAIRPERSON HOOD: She had some very  
5 good, well everyone did, but she had some very good  
6 specific items that we were talking about of how ?

7 CHAIRPERSON MITTEN: The proximity?

8 VICE CHAIRPERSON HOOD: Proximity, thank  
9 you. The proximity of these developments. Thank you.

10 CHAIRPERSON MITTEN: So, before we end, can  
11 I just get some sense of when the Office of Planning  
12 thinks they might be able to get us some additional  
13 information and then we can make sure, especially,  
14 that that gets circulated to the ANCs in Ward 5, since  
15 they've taken a special interest.

16 MS. THOMAS: I'd just like to say that we'd  
17 like some time to really research this.

18 CHAIRPERSON MITTEN: Sure.

19 MS. THOMAS: I guess, in the short span of  
20 time that we had, we really could not go into a lot of  
21 the definitions and uses that day treatment could  
22 provide. So I was glad to have this opportunity to  
23 listen to the ANCs and voice their concerns, which  
24 should be reflected in our report, going forward.

25 But it would take some time to ?

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1 CHAIRPERSON MITTEN: Just tell us how much  
2 you need, I just want to, I just would like to have a  
3 cutoff, I'm not pressing you.

4 COMMISSIONER JEFFRIES: Excuse me, and I'd  
5 just like to get some clarity. Can you just throw  
6 back to us what you think some of the questions were  
7 that we had?

8 MS. MCCARTHY: You mean your original  
9 questions or what you're asking us to look at now?

10 COMMISSIONER JEFFRIES: What we're asking  
11 you to look at now.

12 MS. MCCARTHY: Well, I think the, how to  
13 distinguish the various populations for adult centers.  
14 And then what kinds of issues might one write in, in  
15 terms of proximity, prohibitions against them becoming  
16 residential facilities, better definitions of that.

17 You know, I think we need to get better  
18 information from DCR and DHS about, well, there's  
19 Chair Mitten's question about getting with the Zoning  
20 Administrator and finding out are there many of these  
21 that are out there now that are a matter of right and  
22 they are simply called community centers or something  
23 like that.

24 What would they typically be determined by  
25 the Zoning Administrator to be? And then talk to DHS

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1 and other District Agencies that might fund these  
2 centers and find out the range of programs and just  
3 become, I think, more familiar with the kinds of  
4 services that are needed, the kinds of services that  
5 are provided and how to regulate them effectively.

6 COMMISSIONER JEFFRIES: Thank you, thank  
7 you.

8 MS. THOMAS: Just for the record, as well,  
9 I'd like to let you guys know that I did ask DHS to  
10 come down here to explain a little better some of  
11 their programs and their programming for these  
12 centers. And, unfortunately, nobody showed up.

13 COMMISSIONER HILDEBRAND: Would you also  
14 investigate the idea of parking requirements to see if  
15 there's a different calculation or a different count  
16 that should be applied here.

17 MS. MCCARTHY: Madam Chair, why don't we  
18 say two months to be safe, and we will aim to do it  
19 before that time, if that's possible.

20 But, I just now what's on everybody's  
21 plate and how long it might take to get some of those  
22 answers.

23 CHAIRPERSON MITTEN: Okay, so let's say no  
24 later than June 1?

25 MS. MCCARTHY: Okay.

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1 CHAIRPERSON MITTEN: Okay? And then we  
2 will take it up, take the issue up at one of our  
3 regular, monthly meetings after that. And then folks  
4 who are interested in following this, we'll probably,  
5 we'll probably take the Office of Planning's input and  
6 then adapt it, take a vote on it, and then it will be  
7 published in the D.C. Register.

8 So there will be another time, another  
9 opportunity for you all to comment on what we've done,  
10 then we can take those final comments and incorporate  
11 that into the final rulemaking.

12 So I hope you all stick with us and help  
13 us as we work through this process. And I appreciate  
14 you all coming down tonight and this hearing is now  
15 adjourned. Thank you.

16 (Whereupon, the proceedings in  
17 the above-entitled matter were  
18 concluded at 7:58 p.m.)  
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